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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 170314267-7267-01]

RIN 0648-BG48

Fisheries of the Northeastern United States; Monkfish; Framework Adjustment 10

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: We are proposing to approve and implement regulations submitted by the New England and Mid-Atlantic Fishery Management Councils in Framework Adjustment 10 to the Monkfish Fishery Management Plan. This action would set monkfish specifications for fishing years 2017-2019 (May 1, 2017, through April 30, 2020). This action would also increase current days-at-sea allocations and trip limits to provide additional operational flexibility and fishing opportunities. This action is needed to allow the fishery to more effectively harvest its optimum yield.

DATES: Public comments must be received by *[insert date 15 days after date of publication in the FEDERAL REGISTER]*.

ADDRESSES: You may submit comments on this document, identified by NOAA-NMFS-2017-0026, by either of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2017-*

0026, click the “Comment Now!” icon, complete the required fields, and enter or attach your comments.

- *Mail:* Submit written comments to John K. Bullard, Regional Administrator, National Marine Fisheries Service, 55 Great Republic Drive, Gloucester, MA 01930-2276. Mark the outside of the envelope: “Comments on Monkfish Framework 10.”

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on www.regulations.gov without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF file formats only.

New England Fishery Management Council staff prepared an environmental assessment (EA) for Monkfish Framework Adjustment 10 that describes the proposed action and other considered alternatives. The EA provides a thorough analysis of the biological, economic, and social impacts of the proposed measures and other considered alternatives, a preliminary Regulatory Impact Review, and economic analysis. Copies of the Framework 10 EA are available on request from Thomas A. Nies, Executive Director, New England Fishery Management Council, 50 Water Street, Newburyport, MA 01950. This document is also available from the following internet addresses: <http://www.greateratlantic.fisheries.noaa.gov/> or <http://www.nefmc.org>.

FOR FURTHER INFORMATION CONTACT: William Whitmore, Fishery Policy Analyst, (978) 281-9182.

SUPPLEMENTARY INFORMATION:

Background

The monkfish fishery is jointly managed under the Monkfish Fishery Management Plan (FMP) by the New England and the Mid-Atlantic Fishery Management Councils. The fishery extends from Maine to North Carolina from the coast out to the end of the continental shelf. The Councils manage the fishery as two management units, with the Northern Fishery Management Area (NFMA) covering the Gulf of Maine (GOM) and northern part of Georges Bank, and the Southern Fishery Management Area (SFMA) extending from the southern flank of Georges Bank through Southern New England and into the Mid-Atlantic Bight to North Carolina.

The monkfish fishery is primarily managed by landing limits and a yearly allocation of monkfish days-at-sea (DAS) calculated to enable vessels participating in the fishery to catch, but not exceed, the target total allowable landings (TAL) and the annual catch target ((ACT), which is the TAL plus an estimate of expected discards) for each management area. Both the ACT and the TAL are calculated to maximize yield in the fishery over the long term. Based on a yearly evaluation of the monkfish fishery, the Councils may revise existing management measures through the framework provisions of the FMP to better achieve the goals and objectives of the FMP and achieve optimum yield, as required by the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

The monkfish fishery has not fully harvested its quota since 2011. The fishery harvested less than 70 percent of its quota in the last three years (Table 1). The Councils developed

Framework 10 to enhance the operational efficiency of existing management measures in an effort to better achieve optimum yield.

Table 1 – Monkfish Landings Comparison for Fishing Years 2013-2015

Management Area	Target TAL (mt) for Fishing Years 2013-2015	2013 Landings (mt)	2014 Landings (mt)	2015 Landings (mt)	Average % of TAL Landed 2013-2015
NFMA	5,854	3,596	3,403	4,080	63%
SFMA	8,925	5,088	5,415	4,733	57%

Proposed Measures

1. Establish Specifications for Fishing Years 2017-2019

This action proposes to increase monkfish quotas for the next three fishing years (Table 2). Findings from the 2016 monkfish operational assessment support these quota increases. The 2016 assessment did update several indicators including commercial fishery statistics, fishery-independent survey indices, and fishery performance indices. The 2016 operational assessment also provided a plan for setting catch advice. It should be noted, though, that the 2016 monkfish operational assessment did not update the population model used in previous assessments because new information revealed problems with the methods used to estimate monkfish age and growth. Despite this, based on updated data from the assessment, the New England Fishery Management Council's Scientific and Statistical Committee (SSC) recommended retaining the status quo overfishing limit (OFL) and allowable biological catch limit (ABC) for both management areas for fishing years 2017-2019 (May 1, 2017, through April 30, 2020). The OFL would be 17,805 mt for the NFMA and 23,204 mt for the SFMA. The ABC, which equals the annual catch limit (ACL), would stay at 7,592 mt for the NFMA and 12,316 for the SFMA.

Framework 10 updates the discard rates for both management areas based on catch data updated in the 2016 operational assessment (Table 1). The previous discard rate is calculated as

the ratio of discards to catch from fishing years 2004-2006. The proposed discard rate would use discard information from fishing years 2013-2015. The proposed changes would increase the discard rate in the NFMA from 10.9 percent to 13.9 percent, and from 22.5 percent to 24.6 percent in the SFMA.

The proposed TALs would increase because of modifications to the management uncertainty buffers. Framework 10 proposes to reduce the management uncertainty buffers in both management areas to 3 percent (Table 2). The current management uncertainty buffers are 13.5 percent in the NFMA and 6.5 percent in the SFMA. The approach used to calculate discards has performed well in the past; an adequate amount of discards has been forecasted, reducing the likelihood of the ACL being exceeded. Further, the TALs have been consistently underharvested in both areas (Table 1). For these reasons, this action proposes to reduce the management uncertainty buffer.

Table 2 - Proposed Specification Changes in Framework Adjustment 10.

Management Area	Management Uncertainty Buffer		Discard Rate		Total Allowable Landings (TAL)		TAL Change (%)
	Current (%)	Proposed (%)	Current (%)	Proposed (%)	Current (mt)	Proposed (mt)	
NFMA	13.5	3	10.9	13.9	5,854	6,338	8.27
SFMA	6.5	3	22.5	24.6	8,925	9,011	0.96

2. Monkfish DAS and Trip Limit Increases

Framework 10 proposes trip limit increases in both management areas as well as a DAS increase in the SFMA.

In the NFMA, incidental landing limits for vessels fishing on a groundfish DAS would increase from 600 lb (272 kg) to 900 lb (408 kg) tail weight/DAS for Category C permitted vessels and from 500 lb (227 kg) to 750 lb (340 kg) tail weight/DAS for Category D permitted

vessels. Vessels targeting groundfish land most of the monkfish in the NFMA. Increasing the incidental trip limits for vessels targeting groundfish may increase monkfish landings; however, analyses suggest that a substantial increase is unlikely. This measure would reduce the administrative burden for most Category C and D permitted vessels because they would no longer need to declare a monkfish DAS to retain a higher monkfish possession limit. Increasing the incidental trip limit would also allow these vessels to retain additional monkfish that otherwise would have been discarded when fishing solely on a groundfish DAS under the current (lower) trip limits.

In the SFMA, the DAS allocation and trip limits would increase by 15 percent. Monkfish permitted vessels could fish in the SFMA for 37 DAS. Trip limits for permit Category A and C vessels would increase from 610 lb (277 kg) to 700 lb (318 kg) tail weight/DAS and from 500 lb (227 kg) to 575 lb (261 kg) tail weight/DAS for Category B and D permitted vessels. The majority of monkfish landings in the SFMA come from vessels directly targeting monkfish. Vessels directing on monkfish in the SFMA are more restricted by DAS allocations and trip limits than vessels fishing in the NFMA. Therefore, these trip limit and DAS increases are projected to generate more fishing opportunities and landings in the SFMA.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has made a preliminary determination that this proposed rule is consistent with the Monkfish FMP, Framework 10, provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration (SBA) that this action, if adopted, would not have a significant economic effect on a substantial number of small entities.

As outlined in the preamble of this rule, the purpose of this action is to implement Framework 10 to the Monkfish FMP. Framework 10 would set monkfish specifications for fishing years 2017-2019. As proposed, the TAL of monkfish in both the NFMA and SFMA would increase slightly. This action would also increase trip limits in both management areas and the DAS allocations that could be fished in the SFMA. As a result, this action would increase operational flexibility, fishing opportunities, and revenue. Current monkfish quotas have been underharvested for the past several years. This framework is needed to allow the fishery to more effectively harvest its optimum yield. This action seeks to fulfill the purpose and need while meeting the overarching goals and objectives of the Monkfish FMP.

As of May 1, 2015 (beginning of fishing year 2015), NMFS had issued 798 limited-access monkfish permits. Ownership entities are identified on June 1st of each year based on the list of all permit numbers, for the most recent complete calendar year, that have applied for any type of Northeast Federal fishing permit. The current ownership data set is based on calendar year 2015 permits and contains gross sales associated with those permits for calendar years 2013 through 2015.

For RFA purposes only, NMFS has established a small business size standard for businesses, including their affiliates, whose primary industry is commercial fishing (see 50 CFR 200.2). A business primarily engaged in commercial fishing (NAICS code 11411) is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual receipts not in excess of \$11 million

for all its affiliated operations worldwide. The determination as to whether the entity is large or small is based on the average annual revenue for the three years from 2013 through 2015.

Ownership data collected from permit holders indicate that there are 390 distinct business entities that hold at least one limited-access monkfish permit. Of these 390 entities, 34 do not have revenues (are inactive). Of the 390 entities, 382 entities are categorized as small and 8 are categorized as large entities per the NMFS guidelines. All 390 entities could be directly regulated by this proposed action. There are 38 entities that are “monkfish dependent” (greater than 50 percent of the entity’s gross sales are from the sales of monkfish) and all are considered small entities.

This action, which updates specifications and increases DAS and trip limits, would provide monkfish fishermen with additional fishing opportunities and enhance their operational flexibility.

The measures proposed in Framework 10 are expected to have a positive economic effect on small entities. It could further increase catch per unit effort; well accepted economic theory holds that this will result in increased profitability, all else held constant. Providing increased fishing opportunities should increase landings and profits.

This action is not expected to have a significant economic impact on a substantial number of small entities. The effects on the regulated small entities identified in this analysis are expected to be positive relative to the no action alternative, which would result in lower TALs, fewer DAS, and lower trip limits than the proposed action. Under the proposed action, small entities would not be placed at a competitive disadvantage relative to large entities, and the regulations would not reduce the profit for any small entities. As a result, an initial regulatory flexibility analysis is not required and none has been prepared.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Recordkeeping and reporting requirements.

Dated: May 4, 2017.

Alan D. Risenhoover,

Acting Deputy Assistant Administrator for Regulatory Programs,

National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 648 is proposed to be amended as follows:

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

1. The authority citation for part 648 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 648.92, revise paragraph (b)(1)(ii) to read as follows:

§ 648.92 Effort-control program for monkfish limited access vessels.

* * * * *

(b) * * *

(1) * * *

(ii) *DAS restrictions for vessels fishing in the SFMA.* A vessel issued a limited access monkfish permit may not use more than 37 of its 46 monkfish DAS allocation in the SFMA during each fishing year. Each vessel issued a limited access monkfish permit fishing in the SFMA must declare that it is fishing in this area through the vessel call-in system or VMS prior to the start of every trip. In addition, if a vessel does not possess a valid letter of authorization from the Regional Administrator to fish in the NFMA as described in §648.94(f), NMFS shall presume that any monkfish DAS used were fished in the SFMA.

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3. In § 648.94, revise paragraphs (b)(2)(i) and (ii) and (b)(3)(i) to read as follows:

§ 648.94 Monkfish possession and landing restrictions.

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(b) * * *

(2) *Vessels fishing under the monkfish DAS program in the SFMA*—(i) *Category A, C, and G vessels.* A vessel issued a limited access monkfish Category A, C, or G permit that fishes under a monkfish DAS in the SFMA may land up to 700 lb (318 kg) tail weight or 2,037 lb (924 kg) whole weight of monkfish per DAS (or any prorated combination of tail weight and whole weight based on the conversion factor for tail weight to whole weight of 2.91). For every 1 lb (0.45 kg) of tail-only weight landed, the vessel may land up to 1.91 lb (0.87 kg) of monkfish heads only, as described in paragraph (a) of this section.

(ii) *Category B, D, and H vessels.* A vessel issued a limited access monkfish Category B, D, or H permit that fishes under a monkfish DAS in the SFMA may land up to 575 lb (261 kg) tail weight or 1,673 lb (759 kg) whole weight of monkfish per DAS (or any prorated combination of tail weight and whole weight based on the conversion factor for tail weight to

whole weight of 2.91). For every 1 lb (0.45 kg) of tail-only weight landed, the vessel may land up to 1.91 lb (0.87) of monkfish heads only, as described in paragraph (a) of this section.

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(3) *Category C, D, F, G, and H vessels fishing under the multispecies DAS program*—(i) *NFMA*. Unless otherwise specified in paragraph (b)(1) of this section, a vessel issued a limited access monkfish Category C permit that fishes under a NE multispecies DAS, and not a monkfish DAS, exclusively in the NFMA may land up to 900 lb (408 kg) tail weight or 2,619 lb (1,188 kg) whole weight of monkfish per DAS (or any prorated combination of tail weight and whole weight based on the conversion factor for tail weight to whole weight of 2.91). A vessel issued a limited access monkfish Category D permit that fishes under a NE multispecies DAS, and not a monkfish DAS, exclusively in the NFMA may land up to 750 lb (340 kg) tail weight or 2,183 lb (990 kg) whole weight of monkfish per DAS (or any prorated combination of tail weight and whole weight based on the conversion factor for tail weight to whole weight of 2.91). A vessel issued a limited access monkfish Category C, D, or F permit participating in the NE Multispecies Regular B DAS program, as specified under § 648.85(b)(6), is also subject to the incidental landing limit specified in paragraph (c)(1)(i) of this section on such trips.

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